

APR 21 1995

DEPARTMENT OF INSURANCE
By alc

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STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:)	No. 95-078
)	
GARY VEARL SANDERS, dba)	ORDER SUMMARILY SUSPENDING
SANDERS BROKERAGE SERVICE,)	LICENSES AND NOTICE OF
)	HEARING
Respondent.)	
_____)	

The Arizona Department of Insurance ("Department") alleges below that Respondent has violated the provisions of A.R.S. Title 20. In light of the serious nature of these allegations, the Director of Insurance ("Director") finds that the public health, safety and welfare imperatively require emergency action, within the meaning of A.R.S. § 41-1064(C).

THEREFORE, IT IS ORDERED summarily suspending Respondent's Arizona insurance licenses, effective immediately, pending the proceedings for revocation commenced this date.

EFFECTIVE this 21st day of April, 1995.

Chris Herstam
CHRIS HERSTAM
Director of Insurance

PLEASE TAKE NOTICE, the pursuant to the provisions of A.R.S. § § 20-161 through 165 and 41-1061 et seq., the above captioned matter will be heard before the Director, or the Director's duly designated representative, on the 17th day of May, 1995, at 9:00 a.m., at 2910 North 44th Street, Suite 210, Phoenix, Arizona.

1 Motions to continue this matter shall be made in
2 writing to the Administrative Law Judge not less than five
3 business days before the date set for the hearing. A copy of
4 any motion to continue shall be mailed or hand delivered to the
5 opposing party or attorney on the same date of filing with the
6 Department of Insurance. A.R.S. § 20-164 entitles any person
7 affected by this hearing to appear in person and by counsel, to
8 be present during the giving of all evidence, to have a
9 reasonable opportunity to inspect all documentary evidence, to
10 examine witnesses, to present evidence in support of the
11 person's interests, and to have subpoenas issued by the
12 Director to compel attendance of witnesses and production of
13 evidence in the person's behalf.

14 Question concerning issues raised in this Notice of
15 Hearing should be directed to Assistant Attorney General
16 KATHRYN LEONARD (602) 542-3702, 1275 West Washington, Phoenix,
17 Arizona, 85007.

18 NOTICE OF APPLICABLE RULES

19 On January 23, 1992, the Arizona Department of
20 Insurance adopted A.A.C. R20-6-101 through R20-6-115, setting
21 forth the rules of practice and procedure applicable in
22 contested cases before the Director of Insurance. The hearing
23 will be conducted pursuant to these rules.

24 PURSUANT TO A.A.C. R20-6-106 RESPONDENT SHALL FILE A
25 WRITTEN ANSWER WITHIN 20 DAYS AFTER ISSUANCE OF THIS NOTICE OF
26 HEARING AND SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE

1 ASSISTANT ATTORNEY GENERAL DESIGNATED ABOVE. THE ANSWER SHALL
2 STATE RESPONDENT'S POSITION OR DEFENSE AND SHALL SPECIFICALLY
3 ADMIT OR DENY EACH ASSERTION IN THE NOTICE OF HEARING. ANY
4 ASSERTION NOT DENIED SHALL BE DEEMED TO BE ADMITTED. ANY
5 DEFENSE NOT RAISED IN THE ANSWER SHALL BE DEEMED WAIVED. IF AN
6 ANSWER IS NOT TIMELY FILED, RESPONDENT SHALL BE DEEMED IN
7 DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS IN THE NOTICE
8 TO BE TRUE, AND TAKE WHATEVER ACTION IS APPROPRIATE, INCLUDING
9 SUSPENSION, REVOCATION, DENIAL OF A LICENSE, OR DENIAL OR
10 RENEWAL OF A LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR ORDER
11 RESTITUTION TO ANY PARTY INJURED.

12 The Department alleges:

13 1. Respondent Gary Vearl Sanders ("Sanders") is
14 presently, and was at all times material to this Notice,
15 licensed as a resident life and disability insurance agent,
16 property and casualty broker and surplus lines broker holding
17 license number 435657. At all times material, Sanders was
18 doing business as Sanders Brokerage Services.

19 COUNT I

20 2. On or about June 24, 1994, Golseth and Gregson
21 Insurance Agency ("G & G") received an application for
22 insurance from Lohmans Automotive ("Lohmans") for an insurance
23 policy for underground storage tanks located on their property.

24 3. On or about August 16, 1994, G & G obtained a
25 quote from Sanders Brokerage Services for coverage of the
26 underground storage tanks through Sedgwick James Insurance

1 Company ("Sedgwick") in the amount of \$1,612.50.

2 4. On or about August 25, 1994, G & G forwarded
3 Lohmans' insurance application and a G & G check in the amount
4 of \$1,612.50 to Sanders for insurance coverage for the
5 underground storage tanks through Sedgwicks.

6 5. Sanders failed to forward Lohmans application and
7 premium to Sedgwick.

8 6. To date, Sanders has failed to return Lohmans'
9 premium.

10 COUNT II

11 7. On or about March 23, 1994, G & G received an
12 application for insurance from Pantano Exxon ("Pantano") for an
13 insurance policy for underground storage tanks located on their
14 property.

15 8. On or about April 5, 1994, G & G obtained a quote
16 from Sanders Brokerage Services for coverage of the underground
17 storage tanks through Sedgwick in the amount of \$1,800.00.

18 9. On or about August 26, 1994, G & G forwarded
19 Pantano's insurance application and a down payment, paid by
20 G & G check in the amount of \$675.00, to Sanders for insurance
21 coverage for the underground storage tanks through Sedgwick.

22 10. On or about September 21, 1994, G & G forwarded,
23 by G & G check, the balance of the premium due in the amount of
24 \$937.50 to Sanders.

25 11. Sanders failed to forward Pantano's application
26 and premium to Sedgwick.

1 12. To date, Sanders has failed to return Pantano's
2 premium.

3 COUNT III

4 13. On or about March 10, 1994, Hilb Rogal & Hamilton
5 ("HRH") received an application for insurance from Tuba City
6 High School Board ("Tuba City") for an insurance policy for
7 underground storage tanks located on their property.

8 14. On or about June 30, 1994, HRH obtained a quote
9 from Sanders Brokerage Services for coverage of the underground
10 storage tanks through Sedgwick in the amount of \$4,837.50.

11 15. On or about July 15, 1994, HRH forwarded Tuba
12 City's insurance application and a HRH check in the amount of
13 \$4,837.50 to Sanders for insurance coverage for the underground
14 storage tanks through Sedgwick.

15 16. Sanders forwarded Tuba City's application to
16 Sedgwick.

17 17. Sedgwick subsequently issued Tuba City policy
18 number UST6064590. That policy was ultimately cancelled for
19 nonpayment of premium.

20 18. Sanders failed to forward HRH's premium to
21 Sedgwick.

22 19. To date, Sanders has failed to return Tuba City's
23 premium.

24 COUNT IV

25 20. On or about April 27, 1994, Policy Writers
26 Insurance Agency ("Policy Writers") received an application for

1 insurance from Apache Sands Automotive ("Apache") for an
2 insurance policy for underground storage tanks located on their
3 property.

4 21. Policy Writers obtained a quote from Sanders
5 Brokerage Services for coverage of the underground storage
6 tanks through Sedgwick in the amount of \$7,019.37.

7 22. On or about August 18, 1994, Policy Writers
8 forwarded Apache's insurance application and a Policy Writers'
9 check in the amount of \$7,019.37 to Sanders for insurance
10 coverage for the underground storage tanks through Sedgwick.

11 23. Sanders failed to forward Apache's application
12 and premium to Sedgwick.

13 24. To date, Sanders has failed to return Apache's
14 premium.

15 Count V

16 25. On or about July 1994, Acordia of Arizona
17 ("Acordia") obtained a quote from Respondent on behalf of Lake
18 Havasu Marina ("Marina") for an insurance policy for
19 underground storage tanks located on their property.

20 26. Acordia obtained a quote from Sanders Brokerage
21 Services for coverage of the underground storage tanks in the
22 amount of \$5,845.25.

23 27. Sanders failed to forward Marina's application
24 and premium to the insurer.

25 28. To date, Sanders has failed to return Marina's
26 premium.

1 COUNT VI

2 29. On or about January 20, 1995, Sanders appeared at
3 the Department pursuant to a Subpoena to provide a statement
4 under oath regarding the complaints described above.

5 30. During the statement under oath, Sanders failed
6 to account for the applications and/or premium funds described
7 in Counts I through IV above.

8 31. Subsequently, the Department ordered Sanders to
9 produce his bank account numbers by January 25, 1995. Sanders
10 failed to produce the bank account numbers as ordered.

11 32. On or about February 1, 1995, the Department
12 issued a Subpoena for the production of the bank account
13 numbers and ordered Sanders to provide the information to the
14 Department by February 19, 1995. To date, Sanders has failed
15 to produce the requested information.

16 COUNT VII

17 33. On or about March 16, 1995, the Colorado
18 Department of Insurance issued a Cease and Desist Order against
19 Sanders Brokerage Services, Gary Sanders and others for the
20 marketing and sale of unauthorized workers compensation
21 insurance products which constituted the unauthorized
22 transaction of insurance in Colorado, in violation of
23 §§ 10-3-105 and 10-3-903, C.R.S. (1994).

24 COUNT VIII

25 34. On or before March 1, 1995, Sanders was required
26 to file an annual statement reflecting all surplus line

1 insurance transacted by him during the calendar year of 1994.
2 Sanders failed to file an annual statement as required by
3 A.R.S. § 20-415.

4 35. On or before March 1, 1994, Sanders was required
5 to remit to the state treasurer, through the Director, a three
6 percent (3%) tax on the premiums, exclusive of sums collected
7 to cover federal and state taxes and examination fees, on
8 surplus line insurance subject to tax transacted by him during
9 the calendar year of 1994, as shown by his annual statement
10 filed with the Director, pursuant to A.R.S. § 20-416 (the
11 "surplus line tax").

12 36. Respondent knowingly failed to file the required
13 surplus line broker's annual statement and remit the surplus
14 line tax, as required by A.R.S. §§ 20-415 and 20-416.

15 COUNT IX

16 37. On or about June 3, 1988, a Notice of Hearing of
17 Suspension or Revocation of Surplus Line Broker's License and
18 Fine (the "Notice") was filed In the Matter of Gary V. Sanders,
19 Arizona Department of Insurance No. 6700. In the Notice, the
20 Department alleged that Sanders failed to timely file his 1986
21 annual statement and remit his 1986 premium tax with the
22 Director on or before March 2, 1987 as required by A.R.S.
23 §§ 20-415 and 20-416.

24 38. On or about November 29, 1988, a hearing was held
25 In the Matter of Gary V. Sanders, Arizona Department of
26 Insurance No. 6700.

1 39. On or about December 27, 1988, the Director entered
2 an Order with Findings of Facts and Conclusions of Law filed by
3 the Hearing Officer, In the Matter of Gary V. Sanders, Arizona
4 Department of Insurance No. 6700. In the Findings of Fact and
5 Conclusions of Law, the Hearing Officer found that Sanders failed
6 to timely file his 1986 annual statement and remit his 1986
7 premium tax with the Director on or before March 2, 1987.
8 Subsequently, the Director ordered Sanders to pay a civil penalty
9 in the amount of \$1,740.

10 COUNT X

11 40. On or about July 5, 1989 Sanders submitted proof of
12 a surplus line broker bond, through State Surety Company, bond
13 #1023154, ("bond") in favor of the State of Arizona, in the
14 amount of \$20,000.00.

15 41. On or about July 5, 1990 the bond was cancelled by
16 State Surety Company.

17 42. Respondent failed to replace and maintain the bond
18 in violation of A.R.S. § 20-411(C).

19 VIOLATIONS

20 43. Sander's conduct described above constitutes a
21 record of dishonesty in business or financial matters under
22 A.R.S. § 20-290(B)(2).

23 44. Sanders' conduct described above constitutes the
24 existence of any cause for which original issuance or any renewal
25 of an insurance license could have been refused such that
26 Sanders' licenses may be suspended or revoked under A.R.S.

1 § 20-316(A)(1), together with 20-290(B)(2).

2 45. Sanders' conduct described above constitutes a
3 wilful violation of, or wilful noncompliance with, any provision
4 of A.R.S. Title 20 or any lawful rule, regulation or order of the
5 Director, within the meaning of A.R.S. § 20-316(A)(2).

6 46. Sanders' conduct alleged above constitutes
7 misappropriation or conversion to his own use or illegal
8 withholding of monies belonging to policyholders, insurers,
9 beneficiaries or others and received in or during the conduct of
10 business under the license or through its use, in violation of
11 A.R.S. § 20-316(A)(4).

12 47. Sanders' conduct described above constitutes a
13 conduct of affairs under his license showing him to be
14 incompetent or a source of injury and loss to the public or any
15 insurer, in violation of A.R.S. § 20-316(A)(7).

16 48. Sanders' failure to file the required surplus line
17 broker's annual statement and remit the surplus line tax
18 constitute violations of A.R.S. §§ 20-418 and 20-417.

19 49. Sanders' failure to replace and maintain a surplus
20 lines broker bond constitutes a violation of A.R.S. § 20-411(C).

21 50. Based upon the conduct described above, and
22 pursuant to A.R.S. § 41-1064(C), the public health, safety and
23 welfare imperatively requires emergency action in the form of the
24 summary suspension of Respondent's Arizona insurance licenses,
25 effective immediately, pending the proceedings for revocation
26 commenced this date.

1 WHEREFORE, if after hearing, or upon default in
2 accordance with A.A.C. R20-6-106, the Director makes a finding of
3 one or more of the above-described violations, he may suspend,
4 revoke or refuse to renew the Respondent's insurance licenses,
5 impose civil penalties upon Respondent, and order restitution,
6 pursuant to A.R.S. §§ 20-316(A), 20-316(B), 20-316(C), 20-418 and
7 20-417.

8 Pursuant to A.R.S. § 20-150, the Director herewith
9 delegates all of his authority, powers, duties and functions,
10 whether ministerial or discretionary, vested in the Director of
11 Insurance of the State of Arizona, whether implied or expressed,
12 to GREGORY Y. HARRIS to act as administrative law judge in this
13 matter. This delegation of authority shall continue until
14 specifically revoked.

15 Persons with disabilities may request reasonable
16 accommodations such as interpreters, alternative formats, or
17 assistance with physical accessibility. Requests for
18 accommodations must be made with 72 hours prior notice. If you
19 require accommodations, please contact Chris Crawford in the
20 Administrative Law Division at 912-8454.

21 EFFECTIVE THIS 21st day of April, 1995.

22
23 
24 CHRIS HERSTAM, Director
25 Arizona Department of Insurance
26

1 COPY of the foregoing mailed this
2 21st day of April, 1995, to:

3 Kathryn Leonard
4 Assistant Attorney General
5 1275 West Washington, Room 259
6 Phoenix, Arizona 85007

7 Gay Ann Williams, Deputy Director
8 Charles R. Cohen, Executive Assistant Director
9 Kelly McKay, Deputy Assistant Director
10 John Gagne, Manager, Consumer Affairs
11 Bruce Johnson, Investigator, Consumer Affairs
12 Maureen Catalioto, Supervisor
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15 Phoenix, Arizona 85018

16 Gary Vearl Sanders
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18 Gilbert, AZ 85233

19 Gary Vearl Sanders, dba
20 Sanders Brokerage Service
21 1818 E. Southern Avenue, Suite 4A
22 Mesa, AZ 85204

23 Sedgwick James of Pennsylvania, Inc.
24 P.O. Box 1675
25 Harrisburg, PA 17105

26 Mr. Robert Golseth
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